

Jeff S. Jordan
Supervisory Attorney
Complaints Examination & Legal Administration
Federal Election Commission
999 E Street, NW
Washington DC 20463

2005 FEB -2 A 9:51

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

January 26, 2005

Re: MUR 5636

Dear Mr. Jordan:

I have received your letter dated January 13, 2005 regarding the complaint filed by Mr. Dan Hayward, Executive Director of the Republican State Committee of Pennsylvania, alleging violations of the Federal Election Campaign Act of 1971, as amended.

Pursuant to this matter, I am writing to demonstrate that no further action is warranted by the FEC.

In paragraphs five and six of his letter, Mr. Hayward alleges that materials used to promote Mr. Diamond's federal candidacy were purchased with funds raised by our state campaign committee and cites the use of the "Paid for by russsdiamond.org" disclaimer as evidence.

As I recall, Mr. Diamond paid for all federal campaign expenses out of his own pocket. The use of the "Paid for by russsdiamond.org" disclaimer on federal flyers is not a reference to our state campaign committee. It is my understanding that russsdiamond.org is also the name Mr. Diamond planned to use for a federal campaign committee, however, such a need never developed.

In paragraph seven, Mr. Hayward raises questions about a shared campaign website and the use of an office at 109 West Main Street, Annville PA.

Regarding the shared website, on August 2, 2004, Mr. Diamond reimbursed our state campaign committee for \$92.66 for the appropriate pro-rated portion of the russsdiamond.org website used for federal campaign information. As evidence of this, please review the enclosed printout of our finance report for the period ending October 18, 2004 as filed with the Pennsylvania Department of State.

26044143867



russdiamond.org

109 West Main Street Annville PA 17003

www.russdiamond.org

After reviewing our records, this is the only instance of any financial interaction between our state campaign committee and Mr. Diamond's federal campaign.

Regarding Mr. Diamond's office in Annville, our state campaign committee did not incur any expenses for the use of this space. It is my understanding that using this address for his federal campaign constituted no additional cost to Mr. Diamond, either.

I have read the Commission's stated confidentiality policy, and I would defer to Mr. Diamond's preferences regarding confidentiality. Although no counsel represents me or russdiamond.org at this time, I will reserve the right to such representation in the future.

Sincerely,

Lori Kimmel

Lori Kimmel
Treasurer
russdiamond.org

Enclosures:

1. Commonwealth of Pennsylvania - Campaign Finance Report

Subscribed and sworn before me on this 27th day of January, 2005.

Lori Kimmel

Lori Kimmel

Lisa A. Miller

COMMONWEALTH OF PENNSYLVANIA

Notarial Seal

Lisa A. Miller, Notary Public

Annville Twp., Lebanon County

My Commission Expires Dec. 6, 2008

Member, Pennsylvania Association Of Notaries



www.russdiamond.org

★★★★★☆☆☆☆☆

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Commonwealth of Pennsylvania - Campaign Finance Report

Part E

Other Receipts

Refunds, Interest Income, Returned Checks, etc.

Name of Filing Committee or Candidate RUSSDIAMOND ORG	Reporting Period Ending 10/18/2004 (Cycle 5)
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There is 1 record for this section of the report.

Records 1 to 1

To sort results by a specific column, click on the name of that column

<u>Full Name</u>	<u>Date</u>	<u>Amount</u>
Russell H Diamond 305 W Sheridan Ave. Annville, PA 17003-0000	08/02/2004	\$ 92 66
Description pmt for use of russediamond org website for 17th race		
Total this Page		\$ 92 66

Records 1 to 1

26044143869



109 West Main Street Annville PA 17003

www.russdiamond.org

For Immediate Release; 10.03.04

For More Information:

Russ Diamond, Libertarian Candidate
PA House of Representatives, 101st District
US House of Representatives, PA 17th District

717.867.5617 / info@russdiamond.org / www.russdiamond.org

DIAMOND: REPUBLICAN SMEAR TACTICS "PETTY, HYPOCRITICAL, AND DESPERATE"

Annville, PA – Responding to a press release from the Republican Party of Pennsylvania that said an FEC complaint would be filed against him "for campaign finance violations," Libertarian candidate Russ Diamond today dismissed the coordinated tactic as "a petty, hypocritical, and desperate attempt to revive campaigns that have been labeled a disappointment by the local media."

Executive Director of the Republican Party of Pennsylvania Dan Hayward on Friday stated that Diamond, a candidate in the 17th Congressional district and 101st State House district, was violating the law that prohibits state campaign committees from financing his federal campaign activities.

"If I wanted to whine about campaign finance, I'd have filed a complaint regarding [Republican] Scott Paterno's \$50,000 'salary' his father allegedly paid him for a few weeks' work, which he then promptly loaned to his Congressional campaign," Diamond replied. "Or I could have attacked Mauree Gingrich's illegal advertising. But I've focused on the issues instead."

"It's become a running joke. Republican Scott Paterno told reporters I'm not a factor. Republican Mauree Gingrich didn't even have time to answer my debate challenge," said Diamond. "I've been steadily gaining voter support and media attention, so now they feel threatened. But rather than campaign with dignity, they outsource the workload to their Republican attack machine."

Polls had indicated Republican G. Scott Paterno trailed Democratic incumbent Tim Holden by 26 points. Recent developments have further derailed the Paterno campaign, with Diamond and local publications criticizing his misleading campaign tactics. Last week, sources reported that both Republicans and Democrats were canceling advertising buys in the 17th district – an indication that the race is all but decided.

In the 101st State House district, Republican incumbent Mauree Gingrich has come under attack for failing to debate Diamond, her lone challenger. Her initial rationale was that she would be occupied with legislative and campaign duties. However she later admitted to taking a two-week vacation in September, and has yet to directly respond to Diamond's call for three debates despite several face-to-face encounters at community functions.

Diamond argued that his campaign has strived to abide by all relevant regulations. "We've kept meticulous financial records all along. If the Republican Party feels so strongly about campaign finance, I guess I'll consider filing official complaints against their candidates for the clear and glaring violations we've known about for months," said Diamond.



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FOR IMMEDIATE RELEASE

Contact: Dan Hayward

PoliticsPA.com

October 1, 2004

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- Lt. Governor Catherine Baker Knoll

"PoliticsPA is a great resource and injects some much needed fun and insight into the political discussion here in Pennsylvania."
- Governor Ed Rendell

RSC TO FILE FEC COMPLAINT AGAINST LIBERTARIAN RUSS DIAMOND

Harrisburg – Pennsylvania Republican State Committee Executive Director Dan Hayward today said that the committee would file a complaint with the Federal Election Commission early next week for campaign finance violations made by Russ Diamond, the Libertarian candidate in the PA-17 Congressional race and candidate for the state house.

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"It is clear that you are fast becoming the most widely read and trusted source of information in this town."

- House Speaker John Perzel

"I think it's (PoliticsPA) lively."

- Arlen Specter, United States Senator

"It's the most widely consulted Web site in the state for politics."

- Dr. Terry Madonna, political analyst

"You have invited people to the party of Pennsylvania politics all year long. Some have gotten what they wished for in your rankings. Others just had their candles blown out. Some have had their profile balloons rise; others just burst from too much self-inflation. But you can be sure of one thing - there will be plenty of mischief and mayhem, misdeed and misquote, to keep you busy unwrapping the surprise packages of politics Pennsylvania-style for another twelve months."

- President Pro Tempore Robert Jubelirer

"Nineveh, the ancient Assyrian capital of antiquity had many splendors, but they didn't have PoliticsPA! Your munificent accolades of my intellect and my platoon are surpassed only by your capacity to keep us on our proverbial toes."

- House Democratic Leader Bill DeWeese

"Congratulations to PoliticsPA on one year of providing us complete coverage on Pennsylvania Politics. When the others won't or can't get the story, PoliticsPA always does."

- Attorney General Mike

"Russ Diamond is running for two elected offices but those races have become so intertwined that there is no financial distinction, as required by law," said Hayward.

"On Monday, Republican State Committee will file an official complaint with the FEC against Diamond for violating the law that prohibits state campaign committees from financing his federal campaign activities."

A Libertarian, Russ Diamond is running against Republican State Representative Maureen Gingrich in the 101st district. That campaign committee is regulated by state law and eligible for unlimited campaign contributions. Russ Diamond registered his state house committee with the Pennsylvania Department of State as russdiamond.org. His campaign office in Lebanon County has Russ Diamond for State House signs in the window and his yard signs promote "Diamond for State House."

In contrast, federal finance law has strict contribution limits and reporting requirements, yet campaign literature promoting "Russ Diamond for Congress" bares the state house russdiamond.org disclaimer, as does his website which contains information about both candidacies.

Contributions to Diamond's congressional campaign cannot currently be tracked, because he has not filed a declaration of candidacy with the Federal Elections Commission for his Congressional bid. Such a filing is required by law after a federal candidate has raised or expended \$5000.

"Under the law, federal campaign activities and materials cannot be paid for with state political contributions, yet Mr. Diamond's congressional literature bares his state house political campaign committee disclaimer and his website

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Fisher

"Washington has 'The Hotline,' and Pennsylvania has PoliticsPA. You guys are an excellent source for political analysis and late breaking news. You provide just the right mix of insightful commentary, and of course that necessary dose of humor."

- *Congresswoman Melissa Hart*

"Whenever I am in session in Washington D.C., I always keep up to date on Pennsylvania politics using your site."

-*Congressman Tim Holden*

"Thanks for providing a one-stop click for political junkies like me."

- *TJ Rooney, Chair, Democratic State Committee*

"When it comes to affairs of the state, PoliticsPA is the best place for tips and leads about everything that's happening in Pennsylvania. The Web site keeps a close tab on state politics and makes everyone an insider---and that makes those of us on the inside a bit nervous! The cloak-and-dagger approach of PoliticsPA offers a legitimate source of news and information that keeps the Capitol buzzing and keyboards clicking around the state."

- *Mike Veon, House Democratic Whip*

"You have brightened the Pennsylvania political scene, improved the body politic and gave us all a few more laughs. Many More."

- *Senator Allen Kukovich*

"... an enormously popular and anonymous Web site devoted to state politics."

fails to differentiate between his state and congressional campaigns. His campaigns are so intertwined you don't know where one stops and the other begins," added Hayward.

"What Diamond is doing is wrong. It raises questions about just how serious he takes his two races- either for congress or the state house. He's happy to grab headlines, but maybe he should have grabbed a copy of the FEC regulations first," concluded Hayward.

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